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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,959	10/24/2003	Ronald L. Mahany	14407US02	1865
23446 7590 05/05/2010 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER NGUYEN, PHUONGCHAU BA	
			ART UNIT 2464	PAPER NUMBER
			MAIL DATE 05/05/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/692,959

Applicant(s)

MAHANY ET AL.

Examiner

PHUONGCHAU BA NGUYEN

Art Unit

2464

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 10,12-18,20-43,45-51.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2464

/PHUONGCHAU BA NGUYEN/
Examiner, Art Unit 2464

Continuation of 11, does NOT place the application in condition for allowance because:

A/. Applicant argued that the objected limitation "operable to" is a positive claim limitation and disagreed that it is sufficient that the element is operable to perform its associated function.

-In reply, the claimed limitation of "operable to" is not a positive limitation, instead it is an optional recitation. Hence, it is suggested to amend the claimed limitation of "operable to" to —configured to— so that the claimed language would be a positive recitation, because when an element was being configured to perform its associated function.

B/. Applicant submitted a Terminal Disclaimer to obviate the double patenting rejection.

-In reply, the Terminal Disclaimer was approved by paralegal, therefore, the double patenting rejection is withdrawn.

C/. Applicant argued that Grube does not teach two networks (main and radio networks) and transmitter/receiver 117/118 is not a master device.

-In reply, note that claim 10 recited "a transceiver (repeater-fig.1) comprising a radio unit (117/118) to communicate with the main (communication between the repeater 117/118 to radio device 500, fig.1) and radio (communication between the repeater 117/118 to other cell field units 101-104) networks; wherein the transceiver (117/118) is participated as a master device to control communication (with other cell field units 101-104) on the radio network". Applicant is directed to col.2, line 64-col.3, line 23, wherein a cell field unit 101 requests to transmit by sending a data packet called an ISW 21-fig.1 (inbound) on the inbound frequency allocated to control resource receiver 118-fig.1 of the site resource controller 110, and the transmitter 117 of a site resource controller 110 transmits a grant (outbound) to the requesting communication unit 101 and also allocates a repeater 115 to service the resource grant on the allocated frequencies. Since the site resource controller 110 comprised transmitter/receiver 117/118 and also controlled the granting of communication from the request unit 101 in its cell, thus the site resource controller 110 is participated as a master device within its cell. Therefore, the rejection to claim 10 stands, as well as to claims 18, 38-39.

D/. Applicant argued that the radio link device 500 is not a network.

-In reply, it is agreed that the radio link device 500 is NOT a network. Applicant is directed to col.3, lines 24-64 wherein the radio link device 500 is capable of communicating with cell 1 and other cell 2, thus capable of providing a relayed communication between the repeater 117/118 in cell 1 to a field cell unit 102 in cell 2. In other words, the master device 117/118 controlled communication within its cell 1 (radio network), wherein the radio link device 500 is communicated with resource controller 210 in cell 2, but also provided communication to a field cell unit 102 in cell 1 via its master device (resource controller 117/118).

/PHUONGCHAU BA NGUYEN/
Examiner, Art Unit 2464